

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

DIONTAE JOHAN DUNCAN,

Plaintiff,

v.

CALIFORNIA HEALTHCARE
RECEIVERSHIP CORP., et al.,

Defendants.

Case No. 1:20-cv-01288-ADA-SKO (PC)

**ORDER GRANTING EXTENSION OF
TIME WITHIN WHICH TO FILE
RESPONSIVE PLEADING ON BEHALF
OF ALL DEFENDANTS**

(Doc. 98)

Plaintiff Diontae Johan Duncan is proceeding pro se and *in forma pauperis* in this civil rights action brought pursuant to 42 U.S.C. § 1983. This action proceeds on Plaintiff's Eighth Amendment deliberate indifference to serious medical needs claims against Defendants Marciel, Gallienne, Grewal, Taylor, and Jane Does #1 and #2.

I. RELEVANT PROCEDURAL BACKGROUND

On June 6, 2023, this Court issued its Order Finding Service Appropriate, directing service of process of Plaintiff's second amended complaint through the Court's e-service pilot program. (Doc. 81.)

On July 20, 2023, the Court granted the California Department of Corrections and Rehabilitation's ("CDCR") motion for a 14-day extension of time within which to advise the

1 Court whether personal service was to be waived as to Defendants. (Doc. 86.) That same date, the
2 CDCR filed a notice of intent to waive service of process regarding Defendant Marciel and
3 Taylor (Doc. 87) and a notice of intent *not* to waive service concerning Defendants Gallienne and
4 Grewal (then identified as W. Gerderal III and G. Graywall) (Doc. 88).

5 Following receipt of information submitted by Plaintiff on August 10, 2023, the Court
6 issued its Order Finding Re-Service Appropriate as to Certain Defendants on August 17, 2023.
7 (Doc. 92.)

8 On September 12, 2023, the CDCR filed a notice of intent to waive service concerning
9 Defendants Grewal and Gallienne. (Doc. 97.)

10 On September 15, 2023, the Attorney General’s Office filed a motion for a 60-day
11 extension of time to file a responsive pleading. (Doc. 98.)

12 **II. DISCUSSION**

13 In their motion, Defendants Marciel and Taylor seek a 60-day extension of time within
14 which to file a responsive pleading. (Doc. 98.) Defense counsel states she represents Marciel and
15 Taylor in this action and has substantially completed a responsive pleading on their behalf. (*Id.* at
16 3, ¶ 5.) Defense counsel notes the Attorney General’s Office does not currently represent
17 Defendants Gallienne and Grewal, but is in the process of determining whether it will represent
18 these individuals. (*Id.* at 3, ¶ 1.) The responsive pleading on behalf of Marciel and Taylor is due
19 to be filed September 18, 2023, but on September 12, 2023, the CDCR filed notice of intent to
20 waive service of process regarding Defendants Gallienne and Grewal. (*Id.* at 3, ¶¶ 1, 6.) The
21 responsive pleading on behalf of Gallienne and Grewal is due November 11, 2023. (*Id.*) Defense
22 counsel asserts a 60-day extension of time, up to and including November 17, 2023, would allow
23 counsel time to determine whether the Attorney General’s Office will “undertake representation
24 of Defendants Gallienne III and Grewal and allow all Defendants to have a single responsive
25 pleading deadline.” (*Id.* at 3, ¶ 7.) Defendant counsel states the extension will not prejudice
26 Plaintiff, nor significantly delay this action. (*Id.* at 3, ¶ 8.) Finally, defense counsel states the
27 request is made in good faith, and not for the purpose of delay, harassment, or any improper
28 reason. (*Id.* at 3, ¶ 10.)

The Court will extend the deadline for the filing of a responsive pleading by all Defendants. *See FTC v. Gill*, 265 F.3d 944, 954-55 (9th Cir. 2001) (noting district court's broad discretion to control its docket and set deadlines).

III. CONCLUSION AND ORDER

For good cause shown, the request for an extension of time to file a single responsive pleading is **GRANTED**. Defendants Marciel, Taylor, Gallienne and Grewal shall file a responsive pleading **no later than November 17, 2023**.

IT IS SO ORDERED.

Dated: September 18, 2023

/s/ Sheila K. Oberto
UNITED STATES MAGISTRATE JUDGE